

UNITED STATES OF AMERICA)
)
v.)
) Criminal Case Number 1:18-CR-00045
TIMOTHY PATE,)
defendant.)
)
)

COMES NOW, undersigned counsel, for defendant Timothy Pate, and hereby moves the Court in this Unopposed Motion to Determine Mental Competency of Defendant pursuant 18 U.S.C. 4241, for a local psychiatric or psychological examination of the defendant, and to hold a hearing to determine whether defendant is competent to proceed in this matter, or in the alternative order a psychiatric or psychological examination and report pursuant 18 U.S.C. 4247(b) and (c), prior to said hearing. In support of this Motion, the undersigned states to the Court from his personal knowledge as follows:

1. Undersigned counsel was appointed to represent defendant after his retained counsel was permitted to withdraw due to defendant's threats against counsel's life. Doc 12.
2. On at least 3 different occasions undersigned counsel has attempted to communicate with defendant who refuses to communicate in any manner with the undersigned counsel and specifically states as follows to the undersigned in non responsive manner to Counsel's attempts to communicate with Pate:
 - a. You (counsel) do not work for me (defendant);
 - b. I (defendant) have nothing to say to you (counsel);
 - c. I (defendant) wasn't born yesterday.
3. At the outset of one occasion of the undersigned's attempt to communicate, the defendant inquired whether the undersigned was a member of the bar, to which counsel responded he

was. The defendant then responded to “then I am not a part of your transaction, I was not born yesterday.”

4. On September 18, 2018, Counsel has interviewed Pate’s daughter Antoinette Pate, who is the only family member of defendant known to counsel. Ms. Antoinette Pate indicated to counsel that she does not believe defendant will ever participate in the proceedings against him or will ever communicate with any attorney about the instant criminal charges pending against him.

LEGAL AUTHORITY AND ARGUMENT

Any party to a criminal prosecution, including the court, may move the court for a determination of a defendant’s mental competency pursuant 18 U.S.C. 4241(a). The Court shall grant such a motion, or order a hearing on the motion if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature of and consequences of the proceedings against him or to assist properly in his defense. 18 U.S.C. 4241(a). Alternatively, the court may order a psychological or psychiatric exam prior to any hearing of competency under 18 U.S.C. 4241(b).

The attorney client relationship between undersigned counsel and the defendant is not existent in any practical manner other than by an appointment by the Court as defendant’s counsel. From attempted interviews with defendant and interviews with defendant’s daughter, it appears defendant may not be competent to understand the nature of the proceedings against him or assist counsel in his defense.

WHEREFORE, undersigned counsel, requests the Court conduct a hearing to determine the Defendant’s mental competency and further order a psychological or psychiatric exam prior to such a hearing. The Government does not oppose either prayer for relief.

This 30th day of October, 2018.

THE NYE LAW GROUP, P.C.

 //s//
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Ga. Bar # 549279
Attorney for Timothy Pate

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION**

| | | |
|--------------------------|---|------------------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | |
| |) | Criminal Case Number 1:18-CR-00045 |
| TIMOTHY PATE, |) | |
| defendant. |) | |
| |) | |
| _____ |) | |

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed this Un-Opposed Motion to Continue Suppression Hearing and Motion to Determine Mental Competency of Defendant for the above captioned defendant with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of this filing to all parties of record in this case.

This 30th day of October, 2018 by:

THE NYE LAW GROUP, P.C.

//s//
Justin D. Maines, Esq.
Ga. Bar # 549279
Attorney for Timothy Pate

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